

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

BETTY M. TATE, individually and )  
as Executrix of the Estate of )  
Ben J. Tate, Sr., Deceased, )  
                                    )  
                                    )  
Plaintiff,                     )  
                                    )  
                                    )  
Vs.                             ) Civil No. 4:88CV206  
                                    )  
                                    )  
ACandS, INC., et al.,         )  
                                    )  
                                    )  
Defendants.                     )  
                                    )  
                                    )  
CALVIN R. LUCKEY, and wife, )  
PEGGY G. LUCKEY; JACKSON J. )  
SMITH, and wife, CAROLYN S. )  
SMITH; HAZEL S. BOONE,        )  
individually and as Executrix of )  
the Estate of Billy H. Boone,    )  
Deceased; HAZEL MULLIS,        )  
individually and as Executrix of the )  
Estate of Jerry R. Mullis,      )  
Deceased; and ROGER D. SMITH, )  
and wife, MARGIE P. SMITH,     )  
                                    )  
                                    )  
Plaintiffs,                     )  
                                    )  
                                    )  
Vs.                             ) Civil No. 3:98CV394  
                                    )  
                                    )  
D. B. RILEY, INC.,             )  
                                    )  
                                    )  
Defendant.                     )  
                                    )  
                                    )

JAMES A. KISNER, and wife,	)	
BRENDA G. KISNER,	)	
CLYDE R. McKNIGHT, and wife,	)	
MADELYN G. McKNIGHT,	)	
	)	
Plaintiffs,	)	
	)	
Vs.	)	Civil No. 5:98CV29
	)	
ACandS, INC., et al.,	)	
	)	
Defendants.	)	
	)	
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JIMMY D. HODGE, and wife,	)	
NANCY F. HODGE, HAYWARD B.	)	
McATEER, and wife, JEANNETTE	)	
R. McATEER; and EDWARD R.	)	
MILLS, and wife, SANDRA L.	)	
MILLS,	)	
	)	
	)	
Plaintiffs,	)	
	)	
Vs.	)	Civil No. 1:00CV33
	)	
ACandS, INC., et al.,	)	
	)	
Defendants.	)	
	)	

**ORDER**

**THESE MATTERS** came before the Court on November 8, 2005, for a final pretrial conference.

The Court was advised by counsel of the following: (1) no parties remain for trial in Civil No. 1:00cv33; (2) no parties remain for trial in Civil No. 4:88cv206; (3) no parties remain for trial in Civil No. 5:98cv29; (4) only Plaintiffs Hazel Mullis, Roger and Margie Smith (part of the Duke group of Plaintiffs) and Defendant D.B. Riley, Inc., remain in Case No. 3:98cv394; and (5) only Plaintiffs Jackson and Carolyn Smith (part of the Navy group of Plaintiffs) and Defendant D.B. Riley, Inc., remain in Case No. 3:98cv394.

In addition, the Court made certain rulings during the final pretrial conference which are hereby reduced to writing.

**IT IS, THEREFORE, ORDERED** that all of the remaining parties, which includes both the Duke and Navy groups of Plaintiffs named above and Defendant D.B. Riley, Inc., shall be prepared to commence trial at 9:00 AM on November 28, 2005. No parties will be allowed to postpone trial until January 2006.

**IT IS FURTHER ORDERED** that no further dispositive motions may be filed by any party.

**IT IS FURTHER ORDERED** that the Defendant D.B. Riley, Inc., shall provide expert reports as to experts William Dison, Rear Admiral Roger Horne,

and Dr. Samuel Forman to the Plaintiffs on or before Friday, November 11, 2005. Defendant shall make each of these experts available to the Plaintiffs for deposition before November 23, 2005. The Plaintiffs' motions to strike are, therefore, **GRANTED** in part and **DENIED** in part.

**IT IS FURTHER ORDERED** that proposed jury instructions and trial briefs are to be filed on or before November 21, 2005.

**Signed: November 9, 2005**



Lacy H. Thornburg  
United States District Judge

